

Message Text

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TO AMEMBASSY TOKYO PRIORITY

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E.O. 11652: N/A

TAGS: TSPA, PFOR, JA, US, TZ, MARR

SUBJ: JAPANESE DOWNRANGE TRACKING STATION AT KWAJALEIN

REFS: A. STATE 026748; B. TOKYO A-84; C. TOKYO 1480

1. AFTER DISCUSSION OF JAPANESE DRAFT NOTE (REF B) WITH MR. YOSHINAKA AND APPROPRIATE OFFICIALS WITHIN DEPT AND DOD, DEPT BELIEVES FOLLOWING TEXT, BASED ON JAPANESE DRAFT, SHOULD ADEQUATELY PROTECT U.S. INTERESTS WHILE MEETING VALID GOJ CONCERNS.

2. BEGIN TEXT: "THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN AFFAIRS AND, REFERRING TO THE DISCUSSIONS BETWEEN THE REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN REGARDING THE REQUEST

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OF THE JAPANESE NATIONAL SPACE DEVELOPMENT AGENCY ESTA-

BLISHED BY LAW NO. 50 OF JUNE 23, 1969 (HEREINAFTER REFERRED TO AS 'THE JAPANESE AGENCY') TO LOCATE IN THE UNITED STATES NATIONAL RANGE ON KWAJALEIN ISLAND A TEMPORARY DOWN-RANGE STATION (HEREINAFTER REFERRED TO AS 'THE STATION') FOR ITS ENGINEERING TEST SATELLITE I AND IONOSPHERE SOUNDING SATELLITE MISSIONS, BOTH OF WHICH ARE EXPERIMENTAL LAUNCHINGS TO BE UNDERTAKEN EXCLUSIVELY FOR PEACEFUL PURPOSES, HAS THE HONOR TO PROPOSE THE FOLLOWING ARRANGEMENTS:

1. THE JAPANESE AGENCY WILL ENTER INTO A CONTRACT WITH A UNITED STATES CONTRACTOR APPROVED BY THE UNITED STATES GOVERNMENT (HEREINAFTER REFERRED TO AS 'THE CONTRACTOR') FOR THE LOCATION AND OPERATION OF THE STATION IN THE UNITED STATES NATIONAL RANGE ON KWAJALEIN ISLAND. THE CONTRACT WILL SPECIFY THAT THE STATION WILL BE MAINTAINED AND OPERATED BY PERSONNEL OF THE CONTRACTOR, AND WILL PROVIDE FOR COMPENSATION TO THE UNITED STATES GOVERNMENT IN THE EVENT OF INJURY CAUSED BY NEGLIGENCE OF THE CONTRACTOR OR THE JAPANESE AGENCY.
2. USE OF THE STATION BY THE JAPANESE AGENCY WILL BE COMPATIBLE WITH UNITED STATES GOVERNMENT ACTIVITIES IN THE MARSHALL ISLANDS. THE JAPANESE AGENCY WILL CONSULT WITH THE APPROPRIATE UNITED STATES GOVERNMENT AGENCY TOWARD THAT END.
3. THE JAPANESE AGENCY AND THE APPROPRIATE UNITED STATES GOVERNMENT AGENCY WILL CONCLUDE AN ARRANGEMENT FOR THE REIMBURSEMENT OF ALL COSTS TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA RELATING TO THE USE OF FACILITIES AND PROPERTY ON KWAJALEIN ISLAND BY THE JAPANESE AGENCY.
4. THE GOVERNMENT OF THE UNITED STATES OF AMERICA OR ITS AGENCIES WILL RECEIVE ALL REQUIRED RANGE DOCUMENTATION RELATING TO THE ESTABLISHMENT AND OPERATION OF THE STATION, INCLUDING FREQUENCY ALLOCATION REQUESTS, SOLELY THROUGH THE CONTRACTOR.
5. THE EQUIPMENT AND MATERIALS PROVIDED BY THE JAP-
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ANESE AGENCY FOR THE ESTABLISHMENT AND OPERATION OF THE STATION WILL REMAIN THE PROPERTY OF THE JAPANESE AGENCY.

6. THE NUMBER OF PERSONNEL OF OTHER THAN U.S. OR MICRONESIAN NATIONALITY PRESENT AT KWAJALEIN ISLAND FOR THE OPERATION OF THE STATION WILL NORMALLY BE LIMITED TO TWO JAPANESE AGENCY RANGE OFFICERS WHO WILL BE PRESENT ONLY DURING SPECIFIED PERIODS OF TIME DURING THE LAUNCH

OF A VEHICLE; AT NO TIME SHALL THE NUMBER OF PERSONNEL OF OTHER THAN U.S. OR MICRONESIAN NATIONALITY EXCEED SIX. ALL VISITS TO KWAJALEIN WILL BE CLEARED IN ADVANCE WITH THE APPROPRIATE UNITED STATES GOVERNMENT AGENCIES.

7. THE STATION WILL BE SUBJECT TO INSPECTION BY PERSONNEL OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

8. THE GOVERNMENT OF THE UNITED STATES WILL ALSO PROVIDE EQUIPMENT AND SERVICES SUPPORT AS SET FORTH IN THE ATTACHED ENCLOSURE.

9. THE ABOVE ARRANGEMENTS WILL BE LIMITED TO THE SUPPORT OF TWO LAUNCHES.

IF THE FOREGOING ARRANGEMENTS ARE ACCEPTABLE TO THE GOVERNMENT OF JAPAN, THE EMBASSY HAS FURTHER THE HONOR TO PROPOSE THAT THIS NOTE AND THE MINISTRY'S REPLY TO THAT EFFECT SHALL BE REGARDED AS CONSTITUTING AN AGREEMENT BETWEEN THE TWO GOVERNMENTS, WHICH WILL ENTER INTO FORCE ON THE DATE OF THE MINISTRY'S REPLY AND WILL CONTINUE IN FORCE UNTIL JULY 1, 1977, UNLESS OTHERWISE AGREED BY THE TWO GOVERNMENTS.

THE EMBASSY AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE MINISTRY OF FOREIGN AFFAIRS THE ASSURANCE OF ITS HIGHEST CONSIDERATION." END TEXT

3. MR. YOSHINAKA'S PRELIMINARY AND INFORMAL VIEWS WERE THAT THE ABOVE AMENDMENTS TO THE JAPANESE DRAFT WOULD CAUSE LITTLE PROBLEM FOR THE GOJ. MR. YOSHINAKA DID INDILIMITED OFFICIAL USE

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CATE HOWEVER THAT THE NON-INTERFERENCE CLAUSE (PARA NO. 1, SENTENCE 2) IN THE ORIGINAL U.S. DRAFT CAUSED GREAT DIFFICULTY FOR THE GOJ, APPARENTLY BECAUSE THE JAPANESE DID NOT WISH TO ACCEPT FINANCIAL RESPONSIBILITY FOR INJURY CAUSED BY THE U.S. CONTRACTOR WHO WOULD LARGELY OPERATE THE STATION. IN ORDER TO MEET THIS PROBLEM, WHILE SATISFYING USG NEED TO ENSURE THAT JAPANESE USE OF KWAJALEIN WOULD NOT INTERFERE WITH USG ACTIVITIES, WE HAVE REDRAFTED THE NON-INTERFERENCE CLAUSE (NOW CLAUSE 2), AND ADDED LANGUAGE ON TORT LIABILITY IN CLAUSE 1. THE TORT LIABILITY CLAUSE SHOULD ENABLE THE GOJ TO PLACE LIABILITY ON CONTRACTOR IN THE EVENT OF CONTRACTOR NEGLIGENCE.

4. THIS DRAFT HAS BEEN REVIEWED AND CONCURRED IN BY DOD. WE HAVE MADE AN EFFORT TO MEET GOJ NEEDS INSOFAR AS POS-

SIBLE, AND WOULD HOPE THAT SIGNIFICANT CHANGES IN THIS
DRAFT WILL NOT BE NECESSARY. CASEY

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